

# EXHIBIT

1

THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
EASTERN DIVISION  
NO. 4:09-CV-00181-D

REX T. GILBERT, JR. and	)
DANIELA L. GILBERT,	)
Plaintiffs,	)
	)
v.	)
	)
	)
DEUTSCHE BANK TRUST COMPANY	)
AMERICAS, As Trustee for,	)
RESIDENTIAL ACCREDIT LOANS, INC,	)
DAVID A. SIMPSON, P.C., Substitute Trustee,	)
RESIDENTIAL FUNDING, LLC, and	)
GMAC MORTGAGE, LLC,	)
Defendants.	)
_____	)

**AFFIDAVIT OF THOMAS A. COX**

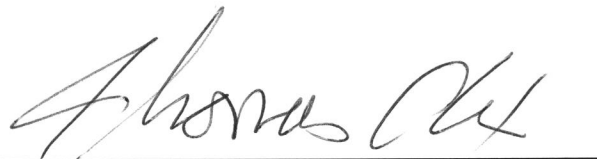
I, Thomas A. Cox, being duly sworn, hereby depose and say:

1. I am Thomas A. Cox, an attorney-at-law licensed to practice before the courts of the State of Maine (Maine Bar No. 1248) and the United States District Court for the District of Maine. I am co-counsel for the Defendant in the matter of *Federal National Mortgage Association v. Bradbury*, BRI-RE-09-65 (Me. Dist. Ct., Dist. 9, Nor. Cumb.) now pending.

2. In *Federal National Mortgage Association v. Bradbury, id.*, I deposed Jeffrey D. Stephan, a Limited Signing Officer of GMAC Mortgage, LLC, on June 7, 2010 in Narberth, Pennsylvania, Pennsylvania.

3. I have in my possession the original transcript of the aforesaid deposition of Jeffrey D. Stephan and have read it. A copy of that transcript is attached to this Affidavit as Exhibit A. Said attached deposition transcript accurately sets forth the testimony given under oath in my presence by Jeffrey D. Stephan on June 7, 2010. No signature page or errata sheet for this deposition transcript has been presented or filed on behalf of Mr. Stephan

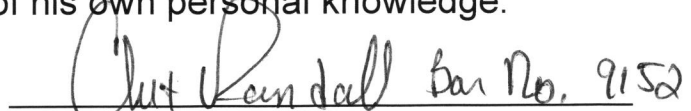
DATED: October <sup>12</sup>~~11~~, 2010



Thomas A. Cox

STATE OF MAINE  
CUMBERLAND, ss

Personally appeared the above signed Thomas A. Cox before me this <sup>12</sup>~~11~~th day of October, 2010 and stated under oath that the foregoing statements made by him are true of his own personal knowledge.

  
Notary Public/ Attorney at Law

MAINE DISTRICT COURT, DISTRICT NINE  
DIVISION OF NORTHERN CUMBERLAND

- - -  
FEDERAL NATIONAL :  
MORTGAGE ASSOCIATION : DOCKET NO.  
Plaintiff : BRI-RE-09-65  
:  
V. :  
:  
NICOLE M. BRADBURY :  
Defendant :  
and :  
GMAC MORTGAGE, LLC :  
d/b/a DITECH, LLC.COM :  
and BANK OF AMERICA, NA :  
Parties in Interest :  
- - -

June 7, 2010

- - -

Oral deposition of JEFFREY D.

STEPHAN, taken pursuant to notice, was  
held at the law offices of LUNDY FLITTER  
BELDECOS & BERGER, P.C., 450 N. Narberth  
Avenue, Narberth, Pennsylvania 19072,  
commencing at 10:10 a.m., on the above  
date, before Susan B. Berkowitz, a  
Registered Professional Reporter and  
Notary Public in the Commonwealth of  
Pennsylvania.

- - -

MAINE DISTRICT COURT, DISTRICT NINE  
DIVISION OF NORTHERN CUMBERLAND

- - -  
FEDERAL NATIONAL :  
MORTGAGE ASSOCIATION : DOCKET NO.  
Plaintiff : BRI-RE-09-65  
:  
V. :  
:  
NICOLE M. BRADBURY :  
Defendant:  
and :  
GMAC MORTGAGE, LLC :  
d/b/a DITECH, LLC.COM :  
and BANK OF AMERICA, NA:  
Parties in Interest:

- - -  
June 7, 2010  
- - -

Oral deposition of JEFFREY D.  
STEPHAN, taken pursuant to notice, was  
held at the law offices of LUNDY FLITTER  
BELDECOS & BERGER, P.C., 450 N. Narberth  
Avenue, Narberth, Pennsylvania 19072,  
commencing at 10:10 a.m., on the above  
date, before Susan B. Berkowitz, a  
Registered Professional Reporter and  
Notary Public in the Commonwealth of  
Pennsylvania.

- - -

## APPEARANCES:

BRIAN M. FLEISCHER, ESQUIRE  
FLEISCHER, FLEISCHER & SUGLIA, P.C.  
Plaza 1000 at Main Street  
Suite 208  
Voorhees, New Jersey 08043  
(856) 489-8977  
bfleischer@fleischerlaw.com  
Counsel for GMAC

THOMAS A. COX, ESQUIRE  
LAW OFFICES OF THOMAS A. COX  
P.O. Box 1315  
Portland, Maine 04104  
(207) 749-6671  
tac@gwi.net  
Counsel for Defendant,  
Nicole M. Bradbury

## VIA TELEPHONE:

JULIA G. PITNEY, ESQUIRE  
DRUMMOND & DRUMMOND  
One Monument Way  
Portland, Maine 04101  
(207) 774-0317  
JPitney@ddlaw.com  
Counsel for GMAC and Fannie Mae

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Document marked Exhibit-1  
for identification.)

- - -

(It is hereby stipulated and  
agreed by and between counsel that  
sealing, filing and certification  
are waived; and that all  
objections, except as to the form  
of questions, be reserved until  
the time of trial.)

- - -

JEFFREY D. STEPHAN, after  
having been duly sworn, was  
examined and testified as follows:

- - -

MS. PITNEY: I would like to  
put on the record that we  
requested a stipulation, and  
Attorney Cox has denied our  
request for that stipulation. And  
that would be a stipulation that  
this deposition transcript be used  
for this case, FNMA versus  
Bradbury, only.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEPHAN

MR. COX: Mr. Fleischer, we understand that Julia Pitney represents the plaintiff in this case. Who do you represent today?

MR. FLEISCHER: I believe Ms. Pitney both represents Fannie Mae and GMAC, and I am here on GMAC's behalf.

MR. COX: GMAC is neither a plaintiff nor defendant in this case, so we may have some issues around that, but we'll cross that bridge when we get to it.

- - -

EXAMINATION

- - -

BY MR. COX:

Q. Mr. Stephan, for the record, would you state your full name, please?

A. Jeffrey Stephan.

Q. How old are you?

A. I am 41, in June.

Q. You live in Sellersville, Pennsylvania?



1 STEPHAN

2 A. That is correct.

3 Q. Have you had your deposition  
4 taken previously?

5 A. In other cases, yes.

6 Q. How many other cases?

7 A. This will be my third time.

8 Q. What other cases were you  
9 deposed in, to your recollection?

10 A. In what kind of cases?

11 Q. Well, can you remember the  
12 names of the cases?

13 A. No, I don't.

14 Q. When is the last time that  
15 you've had your deposition taken?

16 A. I would approximate two,  
17 three months ago.

18 Q. Was that in Florida?

19 A. No. That was in New Jersey.

20 Q. That would have been in  
21 2010?

22 A. Yes.

23 Q. Then you were deposed in  
24 Florida in December of 2009?

25 A. That is correct.

1 STEPHAN

2 Q. When was the other  
3 deposition, the third deposition?

4 A. This one today is the third.

5 Q. Have you testified in court  
6 as a witness before?

7 A. No.

8 Q. Did you review any documents  
9 to prepare for this deposition?

10 A. Yes.

11 Q. What documents did you  
12 review?

13 A. I looked at the deposition  
14 that was sent to me. And I went over the  
15 Complaint with Brian.

16 THE WITNESS: When was that,  
17 Thursday, Wednesday?

18 MR. FLEISCHER: You're  
19 directed not to say anything with  
20 regard to what we spoke about,  
21 but, yes, you can answer to what  
22 you looked at.

23 THE WITNESS: Yes.

24 MS. PITNEY: I'm sorry to  
25 interrupt. I'm just having a

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEPHAN

little difficulty hearing you. Is there any way to push the phone a little closer to Mr. Stephan?

MR. FLEISCHER: Okay. And, Julia, let me know during the course if there's still a problem.

MS. PITNEY: You were doing fine, and then it got a little fuzzy.

THE WITNESS: I'll talk louder.

MS. PITNEY: Thank you.

BY MR. COX:

Q. What deposition did you look at?

A. The deposition for this case.

Q. The Deposition Notice?

A. Right, the Deposition Notice.

Q. It was not another deposition transcript --

A. No.

Q. -- that you were referring

1 STEPHAN

2 to?

3 A. No.

4 MR. FLEISCHER: Let him  
5 finish the question, and then  
6 respond, because it makes it  
7 cleaner for the transcript.

8 THE WITNESS: Thank you.

9 BY MR. COX:

10 Q. What is your educational  
11 background?

12 A. I have a four-year degree at  
13 Penn State University in liberal arts.

14 Q. When did you go to work for  
15 GMAC?

16 A. I began work at GMAC  
17 September 30th of '04.

18 Q. What was your work history,  
19 in a summary form, before you went to  
20 work for GMAC?

21 A. I have done collections and  
22 mortgage foreclosures for other  
23 companies.

24 Q. Who have you done mortgage  
25 foreclosure work for?

1 STEPHAN

2 A. ContiMortgage, Fairbanks  
3 Capital, GMAC.

4 Q. The first one, I'm not sure  
5 about. Is that Conti, C-O-N-T-E (sic)?

6 A. C-O-N-T-I.

7 Q. What period of time did you  
8 work for ContiMortgage?

9 A. I began there in '92. I  
10 believe I left there in '98.

11 Q. What years, approximately,  
12 did you work for Fairbanks Capital?

13 A. '98 to '04.

14 Q. You work in the GMAC  
15 Mortgage office in Fort Washington,  
16 Pennsylvania; is that correct?

17 A. That is correct.

18 Q. Approximately, how many  
19 people work in that office?

20 A. I can't estimate the number  
21 of people. I can say my department,  
22 approximately 50 to 60 people.

23 Q. What's the name of your  
24 department?

25 A. Foreclosures.

1 STEPHAN

2 Q. When you began working for  
3 GMAC Mortgage in 2004, what position did  
4 you begin working in?

5 A. I was a foreclosure  
6 specialist.

7 Q. What kinds of duties did  
8 that involve?

9 A. That involved the day-to-day  
10 handling and servicing of a portfolio of  
11 loans that fell into a foreclosure  
12 category.

13 Q. What kinds of duties did you  
14 carry out with respect to those matters?

15 MS. PITNEY: Object to form.

16 MR. COX: You have to  
17 answer.

18 MS. PITNEY: You can answer  
19 the question.

20 THE WITNESS: The everyday  
21 servicing of the file, from  
22 contacting the attorney, supplying  
23 an attorney who's handling a case  
24 within my portfolio with any  
25 information they may need, a copy

1 STEPHAN

2 of documents that may be needed  
3 through a fax form or e-mail form,  
4 the calculation of figures for  
5 judgments, reporting sale results  
6 at that time, and properly  
7 conveying properties to the proper  
8 departments for post sale action.

9 BY MR. COX:

10 Q. How long did you hold the  
11 position of foreclosure specialist?

12 A. With GMAC, three years.

13 Q. So you would have assumed a  
14 new position sometime in 2007?

15 A. Yes.

16 Q. What position did you assume  
17 in 2007?

18 A. I became a team lead within  
19 the foreclosure department.

20 Q. What duties did you assume  
21 as the team lead in the foreclosure  
22 department?

23 A. At that time, GMAC  
24 segregated our department into teams, and  
25 I was put into place as the supervisor or

1                   STEPHAN  
2     team lead for our bidding team, which  
3     would be a team of individuals who  
4     calculate the bids for sales.

5           Q.       Calculate the bids for sales  
6     of mortgage --

7           A.       Foreclosure sales.

8                   MR. FLEISCHER:   Again, let  
9     him finish the question.

10    BY MR. COX:

11           Q.       Just so I can understand it,  
12     your role in that position was to help  
13     GMAC calculate what it was going to bid  
14     at any given foreclosure sale?

15           A.       That would be correct.

16           Q.       The foreclosure  
17     department -- is that what it's called?

18           A.       Yes.

19           Q.       That has units within it?

20           A.       Yes.

21           Q.       And when you were doing the  
22     bidding work, what unit were you a part  
23     of at that time?

24           A.       The bid team.

25           Q.       How long did you serve on



1                               STEPHAN

2       the bid team?

3               A.       I'm going to estimate six  
4       months to a year, at the most.

5               Q.       Does it sound roughly  
6       correct that sometime in 2008, you  
7       assumed a new position?

8               A.       Yes.

9               Q.       What was the next position  
10      that you held after working on the bid  
11      team?

12              A.       My present position, which  
13      is the team lead of the document  
14      execution team.

15              Q.       Is there also a service  
16      transfer unit?

17              A.       Yes, there is.

18              Q.       Are you the team lead of  
19      that as well?

20              A.       Yes, I am. That falls into  
21      the document execution team.

22              Q.       So I talk your language,  
23      there's a foreclosure department?

24              A.       Yes.

25              Q.       And the subdivisions within

1 STEPHAN

2 that, do you call them teams or units?

3 A. Teams.

4 Q. So there's a foreclosure  
5 department, and then within it are a  
6 group of teams that do different  
7 functions; is that correct?

8 A. That is correct.

9 Q. What does the document  
10 execution team do?

11 MR. FLEISCHER: Objection as  
12 to form.

13 THE WITNESS: Can you  
14 rephrase that?

15 BY MR. COX:

16 Q. What are the functions of  
17 the document execution team?

18 A. The functions of my document  
19 execution team is, I have staff that  
20 prints documents, from our computer  
21 system, that are submitted from our  
22 attorney network. I have staff, also, on  
23 that team who prepares the documents  
24 which have already received figures from  
25 our attorneys. So there are completed

1 STEPHAN

2 documents. They fill in the blanks, they  
3 stamp names. They ensure that all of the  
4 notary lines are completed properly once  
5 it's returned from the notary. And that  
6 staff also is in charge of making sure  
7 they Federal Express the document back to  
8 the designated attorney within our  
9 network.

10 Q. What does the service  
11 transfer team do?

12 A. The service transfer team  
13 receives a list of loans from our  
14 transfer management team, which is  
15 located in Iowa. The service transfer  
16 team within foreclosure only handles  
17 loans that fall into a bankruptcy or  
18 foreclosure category. They prepare files  
19 or CDs, and transfer them to the new  
20 servicer. So they're loans that are  
21 either acquired, or they're loans that  
22 are being transferred to a new servicer  
23 for service.

24 Q. How many employees are on  
25 the document execution team?

1 STEPHAN

2 A. 14.

3 Q. Including yourself?

4 A. No; including me, 15.

5 Q. What training have you  
6 received from GMAC to function in your  
7 capacity as the team lead for the  
8 document execution team?

9 MS. PITNEY: Object to form.

10 BY MR. COX:

11 Q. Let me restate the question.  
12 Have you received any training from GMAC  
13 to use in conjunction with your  
14 performance as the team lead for the  
15 document execution team?

16 A. Yes.

17 Q. What training have you  
18 received?

19 A. I received side-by-side  
20 training from another team lead to  
21 instruct me on how to review the  
22 documents when they are received from my  
23 staff.

24 Q. Who was that person?

25 A. That person, at the time, I

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEPHAN

believe was a gentleman by the name of  
Kenneth Ugwuadu, U-G-W-U-A-D-U. He is no  
longer with GMAC.

Q. How long did that training  
last?

A. Three days.

Q. Were there any written or  
printed training materials or manuals  
used as a part of that training?

A. No.

Q. Again, just so I understand  
what your testimony was, that training  
involved your learning how to review the  
documents that were being processed  
through your hands; is that correct?

A. That's correct.

Q. What were you trained to do  
with respect to those documents by that  
gentleman?

A. Basically, how to review the  
system, which I already basically knew  
from preparing documents in my prior  
position before becoming a team lead. So  
it was more or less a rehash, let's say,

1                   STEPHAN  
2   or retraining, to confirm that I was  
3   looking at things correctly in the  
4   system.

5           Q.       When you refer to a system,  
6   you're referring to a computer system?

7           A.       Yes.

8           Q.       Other than what you might  
9   call it when you're not happy, does that  
10   system have a name?

11          A.       Yes. That system is called  
12   Fiserv, F-I-S-E-R-V.

13          Q.       Have you received any  
14   training on how to use that system?

15          A.       Yes, when I was hired.

16          Q.       Are there any manuals or  
17   training materials associated with your  
18   training on that system?

19          A.       Yes, there is.

20          Q.       Do you have those manuals in  
21   your possession?

22          A.       Presently, no.

23          Q.       Do they exist in your office  
24   at GMAC?

25          A.       I honestly don't know.

1 STEPHAN

2 Q. In your role as team lead  
3 for the document execution team, do you  
4 have any duties with respect to the  
5 receipt, application, or counting for  
6 loan payments?

7 A. No.

8 MS. PITNEY: Object to the  
9 form of the question.

10 BY MR. COX:

11 Q. What department has that  
12 responsibility?

13 A. To my understanding, that  
14 would be customer service. And within  
15 customer service, I believe there is a  
16 cash unit.

17 Q. Have you ever worked in that  
18 cash unit?

19 A. No.

20 Q. Have you ever worked in that  
21 customer service department?

22 A. No.

23 Q. Have you ever had any  
24 training in how that department and unit  
25 work?

1 STEPHAN

2 A. No.

3 Q. In your capacity as team  
4 lead for the document execution team, do  
5 you have any responsibility for data  
6 entry into the computer system regarding  
7 payments received by GMAC?

8 A. No.

9 Q. In your capacity as the team  
10 lead for the document execution team, do  
11 you have any role in the foreclosure  
12 process at GMAC, other than the signing  
13 of documents?

14 MR. FLEISCHER: Objection as  
15 to the form of the question.

16 THE WITNESS: Can you  
17 rephrase?

18 BY MR. COX:

19 Q. In your capacity as the team  
20 lead for the document execution team, do  
21 you have any role in the foreclosure  
22 process, other than the signing of  
23 documents?

24 A. No.

25 Q. I'm going to hand you what



1                   STEPHAN  
2   we have marked as Deposition Exhibit  
3   Number 1, which is your affidavit in this  
4   case, dated August 5, 2009.

5                   MS. PITNEY:   Excuse me, Tom.  
6                   This is Julia.   Am I to presume  
7                   that this is the only exhibit  
8                   you're going to be introducing?  
9                   Because I haven't received any  
10                  exhibits that you plan to produce  
11                  at this deposition today.

12                  MR. COX:   I had no idea you  
13                  were going to be participating  
14                  today, Julia.

15                  MS. PITNEY:   Well, I  
16                  represent the plaintiff.   It  
17                  shouldn't come as any surprise.

18                  MR. COX:   We're not going to  
19                  have a debate on the record.   The  
20                  exhibits are here.   You're welcome  
21                  to come see them.   I had no idea  
22                  that you were going to participate  
23                  in this fashion.

24                  MS. PITNEY:   You had no  
25                  idea?

1 STEPHAN

2 MR. COX: I'm not going to  
3 have this exchange on the record  
4 with you. If you want to go off  
5 the record for a minute, I'll be  
6 happy to do it.

7 MS. PITNEY: No, we're going  
8 to stay right on the record, Tom.

9 MR. COX: That's fine.

10 MS. PITNEY: Is it your  
11 intent to introduce these exhibits  
12 that have not been produced to the  
13 opposing party?

14 MR. COX: I'm not going to  
15 respond to that. I will entertain  
16 objections that you are going to  
17 make. But I'm not going to  
18 respond to your questions on the  
19 record.

20 MS. PITNEY: I'm going to  
21 object to each and every exhibit.

22 MR. COX: That's your right  
23 to do that.

24 BY MR. COX:

25 Q. I've handed you Deposition

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEPHAN

Exhibit Number 1, Mr. Stephan. Is that a document signed by you?

A. Yes, that is my signature.

Q. And that's dated August 5, 2009?

A. That is correct.

Q. Do you have any memory of signing that document?

A. No, I do not.

MS. PITNEY: I'd like to take a brief break and speak with Attorney Fleischer separately. There's no question pending.

(Whereupon, a short recess was taken.)

MR. COX: I gather you have something you want to say on the record, Julia?

MS. PITNEY: Yes. I object to not being provided copies of the documents that you intend to introduce in this deposition. And in an effort to make things more efficient, my proposal is that --

1                   STEPHAN

2           I understand there's not a large  
3           number of documents. I propose  
4           that we have Attorney Fleischer  
5           fax them to me, or e-mail, in  
6           bulk, or we're going to have to  
7           stop. I would object. And each  
8           time I'm going to stop and have  
9           each document sent to me.

10               MR. COX: Your objection is  
11           noted.

12               MR. FLEISCHER: Why don't we  
13           at least just deal with the one  
14           document that's in front of us at  
15           this point, which is the  
16           affidavit, and then we'll address  
17           each one as they come up.

18               MS. PITNEY: Fair enough.

19 BY MR. COX:

20               Q.       Mr. Stephan, you've  
21           testified that in addition to yourself,  
22           there are 14 other employees in your  
23           document execution team.

24               A.       That is correct.

25               Q.       You have a title of limited

1 STEPHAN

2 signing officer; is that correct?

3 A. That is correct.

4 Q. How long have you been a  
5 limited signing officer for GMAC  
6 Mortgage?

7 A. I'm going to estimate, two  
8 years.

9 Q. Are there any other limited  
10 signing officers among the 14 people on  
11 your team?

12 A. No, not amongst my 14  
13 people.

14 Q. Exhibit-1, on the bottom of  
15 the first page, says: I have under my  
16 custody and control the records relating  
17 to the mortgage transaction referenced  
18 below.

19 What records does GMAC  
20 maintain with respect to mortgage  
21 transactions?

22 MS. PITNEY: Object to the  
23 form.

24 THE WITNESS: Please  
25 rephrase.

1 STEPHAN

2 BY MR. COX:

3 Q. What records does GMAC  
4 maintain with respect to mortgage loans?

5 A. We keep our records for the  
6 foreclosure department and the rest of  
7 the company on our Fiserv system for  
8 availability throughout our company.

9 Q. Do paper records exist  
10 anywhere within GMAC Mortgage?

11 A. Yes, they do.

12 Q. Where do they exist?

13 A. I believe they are housed  
14 either in our Iowa office or in  
15 Minnesota, or with any of our custodians  
16 involved within the company.

17 Q. Do you have any  
18 responsibilities for making entries in  
19 the Fiserv system?

20 A. Other than just usual notes,  
21 no.

22 Q. What kind of usual notes do  
23 you enter?

24 MS. PITNEY: Object. I'm  
25 objecting to the form of the

1 STEPHAN

2 question. And, furthermore, I'm  
3 objecting to the extent that  
4 you're basically asking him an  
5 incredibly broad-based question  
6 here, Tom. If you want to ask him  
7 about this case and any entries he  
8 made with respect to this case,  
9 then that's fine. But your  
10 question is pretty sweeping there.

11 BY MR. COX:

12 Q. What is your usual business  
13 practice and routine with respect to  
14 making usual notes in the Fiserv system?

15 A. If a customer were to call  
16 in, I would make a note in our computer  
17 system.

18 Q. Do customers call you in  
19 your capacity as team lead for the  
20 document execution team?

21 A. No, they do not.

22 Q. So if that's the only kind  
23 of notes that you would make in the  
24 system, is it fair to say that you don't  
25 make notes in that system?

1 STEPHAN

2 A. That would be correct.

3 Q. And you have no role in the  
4 entry of any other data into that system;  
5 isn't that correct?

6 A. That is correct.

7 Q. What department maintains  
8 that system?

9 MR. FLEISCHER: Objection as  
10 to form.

11 BY MR. COX:

12 Q. Do you know what department  
13 maintains that system?

14 A. The system is used by the  
15 entire company.

16 Q. Do you know what department  
17 maintains the security for that system?

18 A. The IT department.

19 Q. Where is that located?

20 A. Throughout the entire  
21 country.

22 Q. Do you know what department  
23 makes entries into that system?

24 A. Numerous departments.

25 Q. Do you know what departments



1                   STEPHAN

2       have the ability to change entries in  
3       that system?

4           A.       Nobody has the ability to  
5       change an entry in the system, as far as  
6       a note would go.

7           Q.       What do you mean by that?

8           A.       Such as if a customer calls  
9       in, you type in the system. Once you  
10      type it, it's entered.

11          Q.       Does GMAC keep a paper  
12      record of loan payments made by mortgage  
13      customers?

14          A.       I do not know.

15          Q.       I think you said that the  
16      cash department receives payments --  
17      customer payments; is that correct?

18          A.       To my knowledge, yes.

19          Q.       That's the department that  
20      you've said you have not worked in; is  
21      that correct?

22          A.       That is correct.

23          Q.       So you don't have firsthand  
24      knowledge about how it operates; is that  
25      correct?

1 STEPHAN

2 A. That is correct.

3 MS. PITNEY: Object.

4 BY MR. COX:

5 Q. Do you have any knowledge  
6 about how the data relating to those  
7 payments are entered into the system?

8 A. I do not have that  
9 knowledge.

10 Q. Do you have any knowledge  
11 about how GMAC ensures the accuracy of  
12 the data entered into the system?

13 A. No, I do not.

14 Q. Do you have any knowledge as  
15 to what measures GMAC takes to preserve  
16 the integrity and security of the system?

17 A. No, I do not.

18 MS. PITNEY: Object to the  
19 form of that question.

20 BY MR. COX:

21 Q. In your capacity as team  
22 lead for the document execution team,  
23 what kinds of documents do you sign?

24 A. The types of documents I  
25 sign are assignments of mortgage,

1 STEPHAN

2 numerous types of affidavits, deeds that  
3 need to be done post sale, a substitution  
4 of trustees. And that covers it in a  
5 general span.

6 Q. You said you sign a variety  
7 of affidavits. What kinds of affidavits  
8 do you sign?

9 A. I sign judgment affidavits  
10 for judicial foreclosure actions. I will  
11 sign an affidavit verifying military  
12 duty. I sign affidavits in reference to  
13 -- if GMAC has exhausted all options  
14 through lost mitigation upon reviewing  
15 notes in our Fiserv system. That's a  
16 general description of different types  
17 of affidavits.

18 Q. Your document execution team  
19 provides documents for foreclosures in  
20 what states?

21 A. Throughout the country.

22 Q. Are there other document  
23 execution teams within the GMAC system?

24 A. I believe our bankruptcy  
25 unit also has a document execution team.

1 STEPHAN

2 Q. That's the only other  
3 document execution team that you're aware  
4 of?

5 A. To my knowledge, yes.

6 Q. When you referred in one of  
7 your answers a few moments ago to  
8 judgment affidavits, are you referring to  
9 the type of affidavit in front of you, as  
10 Deposition Exhibit-1?

11 A. That is a similar type of  
12 affidavit, yes. This states Affidavit in  
13 Support of the Plaintiff's Motion for  
14 Summary Judgment.

15 Q. Have you received any  
16 training regarding the summary judgment  
17 process in judicial foreclosure states?

18 A. No.

19 Q. Do you have any knowledge as  
20 to what a summary judgment affidavit is  
21 used for in the State of Maine?

22 MR. FLEISCHER: Objection as  
23 to form.

24 BY MR. COX:

25 Q. Would you please answer the

1 STEPHAN

2 question?

3 A. To my knowledge, a borrower  
4 would have filed a contested answer. And  
5 this would be our next step within the  
6 process, to confirm the amount that is  
7 due to support the summary judgment.

8 Q. Do you understand how the  
9 affidavit is used, that is, Deposition  
10 Exhibit Number 1?

11 MS. PITNEY: Objection.  
12 Tom, you're getting dangerously  
13 close here to the privileged area.  
14 I mean, this affidavit, in itself,  
15 was prepared in preparation for  
16 litigation -- in litigation; not  
17 even preparation for it, but  
18 during litigation.

19 MR. COX: I have not the  
20 slightest interest in getting into  
21 attorney/client privilege. I'll  
22 rephrase the question.

23 BY MR. COX:

24 Q. Do you have any knowledge of  
25 how summary judgment affidavits are used

1                               STEPHAN  
2   in judicial foreclosure states?

3               A.       No.

4               Q.       Are you aware that they are  
5   given to a judge?

6               A.       Yes.

7               Q.       And do you understand that  
8   the judge relies upon them?

9               A.       Yes.

10              Q.       At the time that you  
11   executed Deposition Exhibit-1 on August  
12   5, 2009, you were, at that time, in your  
13   position as team lead for the document  
14   execution department?

15              A.       Yes.

16              Q.       Has the manner in which you  
17   perform your duties as the team lead for  
18   the document execution department changed  
19   in any way over the period from August 5,  
20   2009 to the present date?

21              A.       No.

22              Q.       Has your job description  
23   changed in any manner during that time?

24              A.       I assumed the responsibility  
25   at that time of also handling the service

1                   STEPHAN  
2     transfer team as an additional  
3     responsibility; other than document  
4     execution, no.

5                 Q.       In your usual business  
6     practice as a team lead for the document  
7     execution team, how does a summary  
8     judgment affidavit come to you, such as  
9     the one that is Deposition Exhibit Number  
10    1?

11                MS. PITNEY:   Objection.  
12                Tom, if you'd like to ask him  
13                about how this specific affidavit  
14                came to him, that's fine.   But,  
15                again, you're asking way too  
16                broad.

17   BY MR. COX:

18                Q.       Do you know how this  
19     specific affidavit got to you, Mr.  
20     Stephan?

21                A.       We have a process in place  
22     that if our attorney network needs an  
23     affidavit, they will upload it into our  
24     system, which is called LPS.   We have  
25     another system, which is a communication

1                   STEPHAN

2       tool, between our attorneys. They load  
3       it into a process called signature  
4       required.

5                   MS. PITNEY: Jeff, I'm going  
6       to interrupt you right there. To  
7       the extent that this answer or  
8       anything else that you say has to  
9       do with your communication between  
10      you and your attorney -- GMAC and  
11      its attorney, it's attorney/client  
12      privilege.

13                  THE WITNESS: So I won't  
14      answer.

15                  MR. COX: Well, let's go  
16      back and ask the question again.

17                  MS. PITNEY: He's answered  
18      the question. He gets the  
19      affidavit from the attorney.

20   BY MR. COX:

21                  Q.       What is the LPS system?

22                  A.       That is a communication tool  
23      with our attorney network.

24                  Q.       Is LPS a separate company?

25                  A.       Yes.



1                   STEPHAN

2                   MS. PITNEY:   Objection.   The  
3                   means by which he communicates any  
4                   details about -- the means by  
5                   which he communicates with his  
6                   attorneys is privileged.

7   BY MR. COX:

8                   Q.       What does LPS do?

9                   MS. PITNEY:   I'm going to  
10                  object again on privilege grounds.  
11                  Same objection.   Do not answer  
12                  that question.

13                  THE WITNESS:   Okay.

14   BY MR. COX:

15                  Q.       Is the source of what you  
16                  know about what LPS does based upon any  
17                  communication that you've had with  
18                  lawyers?

19                  A.       Sorry.   Please rephrase  
20                  that.   I don't understand your question.

21                  Q.       Do you know what LPS does  
22                  with respect to documents processed by  
23                  your unit?

24                  MS. PITNEY:   Objection.  
25                  Same objection.

1 STEPHAN

2 MR. COX: He can answer that  
3 yes or no.

4 THE WITNESS: I still don't  
5 understand what you're asking.

6 BY MR. COX:

7 Q. You've mentioned LPS.

8 A. Right.

9 Q. That's a separate company;  
10 is that correct?

11 A. It's a system that we have  
12 acquired from a company by the name of  
13 Fidelity, in order to have communication  
14 between our attorneys.

15 Q. Do you have any memory of  
16 specifically receiving Deposition  
17 Exhibit-1?

18 A. No.

19 Q. Again, I'm asking you, based  
20 upon that, to describe what the usual  
21 business practice is within your unit, as  
22 far as how affidavits, such as Deposition  
23 Exhibit-1, come to you.

24 A. Our attorney will load it to  
25 the LPS system. Members of my team will

1 STEPHAN

2 print it. Other members will prepare it.  
3 The figures have already been loaded from  
4 our network of attorneys. So my team  
5 does not have any input on the affidavit,  
6 other than filling in my name. They  
7 bring it to me. I review it against our  
8 Fiserv system, execute it, hand it back.  
9 They get it notarized. It's Federal  
10 Expressed back to the individual attorney  
11 asking.

12 Q. Do you keep a log of any  
13 sort of what documents you execute?

14 MS. PITNEY: I'm sorry. Can  
15 you repeat the question, Tom? I  
16 could not hear that.

17 BY MR. COX:

18 Q. Do you keep a log of any  
19 sort of what documents you execute?

20 MS. PITNEY: Objection.  
21 Work product. Any type of log  
22 that he keeps relative to these  
23 affidavits is prepared in  
24 preparation for litigation; to the  
25 extent that one even exists.

1                   STEPHAN

2                   MR. COX:   He can answer the  
3                   question of whether or not he  
4                   keeps a log, before I ask him what  
5                   goes into the log.

6                   MS. PITNEY:   Fine.

7                   THE WITNESS:   No, I don't  
8                   have a log.

9   BY MR. COX:

10                  Q.       Does anybody keep a log of  
11                  what documents you sign?

12                  MS. PITNEY:   Object to the  
13                  form of that question.

14                  THE WITNESS:   Please  
15                  rephrase.

16   BY MR. COX:

17                  Q.       Do you know if anybody keeps  
18                  a log of what documents you execute?

19                  A.       We have notaries in our  
20                  department, approximately six, who keep a  
21                  log for what they notarize.

22                  Q.       These are notaries within  
23                  your department?

24                  A.       That is correct.

25                  Q.       As I understand it, the

1                   STEPHAN

2       first step is, in your department, a  
3       document comes in on the LPS system from  
4       the outside lawyer; is that correct?

5               A.       That is correct.

6               Q.       And then an employee in your  
7       department prints it out; is that  
8       correct?

9               A.       That is correct.

10              Q.       And then you said that the  
11      employee prepares the document. What  
12      does that mean?

13                   MS. PITNEY: Objection. The  
14      document is prepared for  
15      litigation. It is privileged.  
16      How it is prepared is privileged.  
17      Do not answer that question.

18   BY MR. COX:

19              Q.       Do your employees have any  
20      direct communication with outside  
21      counsel?

22              A.       Yes, through the LPS system.

23                   MS. PITNEY: Objection. How  
24      and what he communicates with his  
25      attorney is privileged, Tom.

1 STEPHAN

2 MR. COX: I haven't asked  
3 for the content. I asked if it  
4 happens.

5 BY MR. COX:

6 Q. Would you answer the  
7 question, please?

8 A. Yes, through the LPS system.

9 Q. Is anything done to a  
10 document submitted to the LPS system by  
11 an outside lawyer before it reaches your  
12 hands?

13 MS. PITNEY: Objection.

14 Preparation of the document is  
15 privileged. It's for litigation.  
16 Do not answer the question.

17 BY MR. COX:

18 Q. Is the document that is  
19 received in the LPS system from outside  
20 counsel presented to you in exactly the  
21 form that it is received in from outside  
22 counsel?

23 MS. PITNEY: Objection.

24 Same objection.

25 MR. COX: Is it an

1                               STEPHAN

2                   objection, or are you instructing  
3                   him not to answer?

4                               MS. PITNEY:    I'm instructing  
5                   him not to answer, to the extent  
6                   you're asking him questions about  
7                   a document that was prepared  
8                   specifically during the course of  
9                   litigation.  It's protected by  
10                  privilege, and you can't ask him  
11                  questions about it.

12  BY MR. COX:

13                  Q.       Deposition Exhibit-1 has  
14                  your name stamped on it with a stamp; is  
15                  that correct?

16                  A.       That is correct.

17                  Q.       And below your name, the  
18                  words "limited signing officer" appear;  
19                  is that correct?

20                  A.       That is correct.

21                  Q.       Who puts that stamp on these  
22                  affidavits?

23                  A.       My team.

24                  Q.       On this particular  
25                  affidavit, your name and title is stamped

1                   STEPHAN  
2       twice on the first page, and once on the  
3       signature page for you; is that correct?

4           A.       That is correct.

5           Q.       And then it's stamped again  
6       on the notary page; is that correct?

7           A.       That is correct.

8           Q.       So as I understand it, an  
9       affidavit, such as Deposition Exhibit-1,  
10      is initially prepared by outside counsel?

11                   MS. PITNEY:   Objection.

12   BY MR. COX:

13           Q.       Is that correct?

14           A.       Yes, that is correct.

15           Q.       Does anybody on your team  
16      verify the accuracy of any of the  
17      contents of the affidavit before it  
18      reaches your hands?

19                   MS. PITNEY:   Objection

20                   again.   How the document is  
21                   prepared -- you can ask him  
22                   questions about the document and  
23                   what's stated in the document.  
24                   The preparation of the document,  
25                   which is prepared for litigation,



1                   STEPHAN

2                   is privileged. Do not answer the  
3                   question, Jeff.

4 BY MR. COX:

5                   Q.       Mr. Stephan, do you recall  
6                   testifying in your Florida deposition in  
7                   December, with regard to your employees,  
8                   and you said, quote, they do not go into  
9                   the system and verify the information as  
10                  accurate?

11                  A.       That is correct.

12                  MS. PITNEY: I'm sorry.  
13                  Tom, could you please repeat what  
14                  you just said? I just couldn't  
15                  hear.

16                  MR. COX: Quote: They do  
17                  not go into the system and verify  
18                  the information as accurate.

19 BY MR. COX:

20                  Q.       Is that correct?

21                  A.       That is correct.

22                  MR. FLEISCHER: Tom, can you  
23                  reference what litigation that was  
24                  in, do you know?

25                  MR. COX: The Florida case

1                   STEPHAN

2                   that he testified in.

3                   MR. FLEISCHER: I just  
4                   thought you might have a reference  
5                   there.

6                   MR. COX: I'll get it  
7                   shortly.

8 BY MR. COX:

9                   Q. Do you and your 14-person  
10                  team all work in the same physical space?

11                  A. Yes. We're all in the same  
12                  department.

13                  Q. Do you have an office or a  
14                  cubicle, or what?

15                  A. Cubicle.

16                  Q. Do the employees bring  
17                  documents to you to sign?

18                  A. That is correct.

19                  Q. How many do they bring to  
20                  you at a time, on average?

21                  A. For a month, anywhere from  
22                  six to 8,000 documents.

23                  Q. Do you recall testifying in  
24                  your Florida deposition in December that  
25                  you estimated it was 10,000 documents a

1 STEPHAN

2 month?

3 A. I do not recall. I'm going  
4 off of numbers within the past month or  
5 so.

6 Q. Have those numbers gone down  
7 in the past month or so?

8 A. There has been a decrease.

9 Q. Back in December, were you  
10 signing in the range of 10,000 documents  
11 a month?

12 A. I may have been.

13 Q. Back in August of 2009,  
14 roughly, how many documents a month were  
15 you signing?

16 A. I cannot estimate. I don't  
17 know.

18 Q. Do you believe that it was  
19 more or less than the number you were  
20 signing in December?

21 A. I'm going to assume, more.

22 Q. And on a given day, I  
23 understand an employee brings you a group  
24 of documents for you to sign; is that  
25 correct?

1                               STEPHAN

2                   A.       That would be correct.

3                   Q.       Roughly, how many are  
4 brought to you in a group, on average?

5                   A.       Throughout a day, I believe  
6 we are averaging approximately 400 new  
7 requests coming in from our attorney  
8 network. So I would say approximately  
9 400 per day.

10                  Q.       This sounds very basic.  
11 But, physically, are you handed a pile of  
12 100 documents, 300 documents? How does  
13 that work?

14                  A.       They bring them to me in  
15 individual folders from each one of the  
16 members of my team. I do not count how  
17 many are in the files.

18                  Q.       So each team employee has a  
19 folder of document; is that correct?

20                  A.       That is correct.

21                  Q.       When you receive a summary  
22 judgment affidavit to be signed by you,  
23 is it accompanied by any other documents  
24 relating to the loan?

25                               MS. PITNEY: Objection. The

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

STEPHAN

document is prepared for  
litigation. And anything he does  
when he's preparing it is  
privileged.

MR. COX: Are you telling  
him not to answer?

MS. PITNEY: I am. Tom, if  
you want to ask him about general  
procedures, which you have been,  
then I'm not going to object as  
much. But if you want to ask him  
about what goes into preparing a  
document that was used for summary  
judgment, that's clearly prepared  
for litigation, and it's  
privileged and protected.

MR. COX: I think you  
haven't heard my question, Julia.  
I'll state it again.

BY MR. COX:

Q. When you receive a summary  
judgment document for your execution, is  
it accompanied by any other documents?

MS. PITNEY: My objection is

1                   STEPHAN

2                   -- you can answer that question,  
3                   Jeff.

4                   THE WITNESS:   There are  
5                   times when it has the Complaint  
6                   connected.   There are times when  
7                   it is brought to me just as the  
8                   affidavit.

9   BY MR. COX:

10                  Q.       When you say that there are  
11                  times when it comes to you with a  
12                  Complaint connected, you mean attached as  
13                  an exhibit?

14                  A.       Such as this one, yes.

15                  Q.       When you say "this one,"  
16                  you're referring to Deposition Exhibit-1?

17                  A.       Yes, that is correct.

18                  Q.       Deposition Exhibit-1 has  
19                  several exhibits attached to it; is that  
20                  correct?

21                  MS. PITNEY:   Could you  
22                  please tell me what the exhibits  
23                  that are attached are, because I  
24                  don't have the benefit of having  
25                  them in front of me?

1                   STEPHAN

2                   THE WITNESS:   Exhibit-A is a  
3                   copy of the note and the --

4                   MR. COX:    Julia, this is  
5                   your summary judgment affidavit.

6                   MS. PITNEY:   I'm not  
7                   doubting that it is.   I just don't  
8                   know what these other exhibits  
9                   attached are.

10                  MR. COX:    Don't you have  
11                  your copy?

12                  MS. PITNEY:   You're the one  
13                  verifying if they're the same as  
14                  the one I'm looking at, Tom.

15                  THE WITNESS:   Exhibit-B is  
16                  the mortgage.   Exhibit-C is the  
17                  assignment of note and mortgage.  
18                  Exhibit-D -- I believe we're  
19                  looking at the demand, or the  
20                  breach letter.   And those are the  
21                  four documents that are connected  
22                  to this affidavit of summary  
23                  judgment.

24       BY MR. COX:

25                  Q.       In your usual practice, are

1                   STEPHAN  
2     those exhibits attached to the affidavit  
3     at the time that you sign them?

4                   MS. PITNEY:   Objection.

5                   You're asking about a document  
6                   that was prepared by an attorney.  
7                   Anything that comes with it that  
8                   he's asked to review is  
9                   privileged -- the communication  
10                  between a client and an attorney.  
11                  Do not answer the question.

12  BY MR. COX:

13                  Q.       Mr. Stephan, would you  
14     please look at Paragraph 3 of Exhibit-1.  
15     Do you see there the statement:   That a  
16     true and correct copy of which is  
17     attached hereto is Exhibit-A?

18                  A.       Where are you looking?

19                  Q.       Paragraph 3.   Do you see  
20     that statement?

21                  A.       Yes, I do.

22                  Q.       When you sign an affidavit  
23     such as Exhibit-1, are the exhibits  
24     attached to it?

25                  MS. PITNEY:   Objection.   A



1                   STEPHAN

2                   document that's provided to him by  
3                   an attorney is privileged.

4                   MR. COX:   Are you telling  
5                   him not to answer that question?

6                   MS. PITNEY:   Yes.   I'll say  
7                   again, Tom, if you would like to  
8                   ask him about the facts that are  
9                   in the affidavit, the details  
10                  about this loan -- which I might  
11                  remind you involves a woman by the  
12                  name of Nicole Bradbury -- then  
13                  I'm sure Jeff will answer your  
14                  question?

15                  MR. COX:   Well, he has the  
16                  affidavit in front of him in this  
17                  case.   And the affidavit which he  
18                  swore to says a true and correct  
19                  copy of the note is attached to  
20                  it.   And I'm asking him if that  
21                  document was attached to it at the  
22                  time that he signed it.

23   BY MR. COX:

24                  Q.           Would you please answer that  
25                  question?

1 STEPHAN

2 A. To my knowledge, I do not  
3 recall.

4 Q. Is it your usual business  
5 practice to have exhibits attached to  
6 affidavits that you sign?

7 A. Yes.

8 Q. All exhibits?

9 MS. PITNEY: Object to form.

10 THE WITNESS: I do not know.

11 BY MR. COX:

12 Q. When you sign a summary  
13 judgment affidavit, do you check to see  
14 if all the exhibits are attached to it?

15 A. No.

16 Q. Does anybody in your  
17 department check to see if all the  
18 exhibits are attached to it at the time  
19 that it is presented to you for your  
20 signature?

21 A. No.

22 Q. When you sign a summary  
23 judgment affidavit, do you inspect any  
24 exhibits attached to it?

25 A. No.

1 STEPHAN

2 MS. PITNEY: Could you  
3 repeat the question, Tom? Did you  
4 say -- or can you have it read  
5 back, please?

6 (Whereupon, the pertinent  
7 portion of the record was read.)

8 MS. PITNEY: Object to the  
9 form.

10 BY MR. COX:

11 Q. What happens to an affidavit  
12 in your department after you sign it?

13 MS. PITNEY: Objection.  
14 What happens to the document  
15 afterwards is -- it's in the  
16 course of litigation. The same  
17 objection as I said before. Where  
18 it goes is privileged.

19 MR. COX: Where it goes is  
20 not a communication. It is not  
21 privileged.

22 MS. PITNEY: You don't know  
23 that.

24 MR. COX: Pardon me?

25 MS. PITNEY: You don't

1                   STEPHAN

2                   necessarily know that.

3                   MR. COX:   The physical  
4                   movement of a document is not a  
5                   communication.   It's a fact.

6   BY MR. COX:

7                   Q.       My question to you is, where  
8                   does a summary judgment go after you sign  
9                   it?

10                  A.       After I sign it, it is  
11                  handed back to my staff.   My staff hands  
12                  it to a notary for notarization.   It is  
13                  then handed back to my staff.   They send  
14                  it back to the network attorney  
15                  requesting any type of affidavit.

16                  Q.       So you do not appear before  
17                  the notary; is that correct?

18                  A.       I do not.

19                  Q.       What does your staff do with  
20                  a summary judgment affidavit, such as  
21                  Deposition Exhibit-1, after it receives  
22                  it back from the notary?

23                  A.       They go into our LPS system,  
24                  close out process, stating it's being  
25                  sent back to --

1                   STEPHAN

2                   MS. PITNEY:   Objection.

3                   Sorry.   I don't mean to interrupt  
4                   you, Jeff.   I'm going to instruct  
5                   you not to answer anything else,  
6                   because you've already testified  
7                   that the LPS system is the means  
8                   by which you communicate with your  
9                   attorney.   The attorney/client  
10                  communication is privileged.   So  
11                  don't continue to answer the  
12                  question.

13                  Actually, if there is no  
14                  question, pending, I'd like to  
15                  take a brief break to discuss  
16                  something with Brian Fleischer.

17                  (Whereupon, a short recess  
18                  was taken.)

19                  BY MR. COX:

20                  Q.        Mr. Stephan, do you recall  
21                  testifying in your Florida deposition in  
22                  December that you rely on your attorney  
23                  network to ensure that the documents that  
24                  you receive are correct and accurate?

25                  A.        That is correct.

1 STEPHAN

2 Q. And is that, in fact, the  
3 case?

4 A. Yes.

5 Q. And your department does not  
6 do any independent accuracy check of  
7 those records; isn't that correct?

8 MR. FLEISCHER: Objection as  
9 form.

10 THE WITNESS: Can you  
11 rephrase?

12 BY MR. COX:

13 Q. Your department does not do  
14 any independent check of the accuracy of  
15 the information on the summary judgments  
16 coming to you; isn't that correct?

17 A. I review, quickly, the  
18 figures. Other than that, that's about  
19 it.

20 Q. Do you recall testifying in  
21 your Florida deposition in December, that  
22 the affidavits that you sign are not  
23 based upon your own personal knowledge?

24 A. I do not recall.

25 MS. PITNEY: Objection to

1                               STEPHAN

2                               the form.

3       BY MR. COX:

4                               Q.       You do not recall that?

5                               A.       I do not recall.

6                               Q.       When you receive a summary  
7 judgment affidavit from one of your staff  
8 members, what do you do with it?

9                               A.       I will first review it  
10 against our computer system, which is  
11 Fiserv, in general terms, to verify that  
12 the figures are correct. And then I will  
13 execute it and hand it back to my staff  
14 to have it notarized.

15                              Q.       You say "in general terms"  
16 you review it. What do you mean?

17                              MS. PITNEY: Objection.

18                              THE WITNESS: I compare the  
19 principal balance. I review the  
20 interests. I take a look at the  
21 late charges. I look at the  
22 outstanding escrow amounts. When  
23 I say "general terms," I mean I'm  
24 not looking at the escrow and  
25 breaking it down to the penny.

1                   STEPHAN

2                   I'm saying, yes, it looks correct  
3                   in my computer system.

4       BY MR. COX:

5                   Q.       Is there anything else that  
6       you look at in your computer system when  
7       you're signing a summary judgment  
8       affidavit?

9                   MS. PITNEY:   I'm sorry.   I  
10                  couldn't hear the last part of  
11                  that.

12       BY MR. COX:

13                  Q.       Is there anything else that  
14       you look at in your computer system at  
15       the time that you sign a summary judgment  
16       affidavit?

17                  A.       The only other thing I  
18       can --

19                  MS. PITNEY:   One second.  
20                  Are we talking about the computer  
21                  system, the communication system?  
22                  I just was asking for  
23                  clarification of --

24                  MR. COX:   Let me clarify it.

25                  MS. PITNEY:   What computer



1                               STEPHAN

2                               communication system Tom was  
3                               asking him about.

4       BY MR. COX:

5                               Q.       You testify that you go into  
6       the First Serve (sic) system; is that  
7       correct?

8                               A.       Yes, Fiserv.

9                               Q.       Fiserv. Do you go into any  
10      other computer system at the time that  
11      you're signing a summary judgment  
12      affidavit?

13                              A.       No.

14                              Q.       And you just testified that  
15      you look at principal, interest, late  
16      charges and escrow; is that correct?

17                              A.       That is correct.

18                              Q.       Is there anything else that  
19      you look at in your computer system when  
20      you're signing a summary judgment  
21      affidavit?

22                              A.       The only thing I review,  
23      other than that, is who the borrower is.

24                              Q.       When you receive a summary  
25      judgment affidavit to sign, do you read

1                               STEPHAN

2       every paragraph of it?

3                   A.       No.

4                   Q.       What do you read?

5                   A.       I look for the figures.

6                   Q.       That's all that you look at  
7       when you sign a summary judgment  
8       affidavit?

9                   A.       Yes, to ensure that the  
10       figures are correct.

11                  Q.       Is it fair to say then that  
12       when you sign a summary judgment  
13       affidavit, you do not know what it says,  
14       other than what the figures are that are  
15       contained within it?

16                   MR. FLEISCHER:   Objection as  
17       to form.

18                   MS. PITNEY:   Objection to  
19       the form of the question.

20                   THE WITNESS:   Please  
21       rephrase.

22       BY MR. COX:

23                   Q.       It fair to say that when you  
24       sign a summary judgment affidavit, you  
25       don't know what information it contains,

1                   STEPHAN

2       other than the figures that are set forth  
3       within it?

4               A.       Other than the borrower's  
5       name, and if I have signing authority for  
6       that entity. That is correct.

7               Q.       The practice that you've  
8       just described for signing summary  
9       judgment affidavits is the practice that  
10      you use signing all summary judgment  
11      affidavits that you handle; is that  
12      correct?

13              MR. FLEISCHER: Again, I'm  
14              going to object to the form of the  
15              question.

16   BY MR. COX:

17              Q.       Is that correct?

18              A.       The practice that I use for  
19       summary judgment affidavits is the same  
20       practice that I use for all affidavits.

21              Q.       And that's the one that  
22       you've just described?

23              A.       Yes.

24              Q.       Is any part of your  
25       compensation at GMAC Mortgage tied to the

1 STEPHAN

2 volume of documents that you sign?

3 A. No.

4 Q. Is any part of your  
5 compensation tied to the volume of  
6 documents that your department processes?

7 A. No.

8 Q. Is it your understanding  
9 that the process that you follow in  
10 signing summary judgment affidavits is  
11 in accordance with the policies and  
12 procedures required of you by GMAC  
13 Mortgage?

14 A. Yes.

15 Q. Does GMAC do any quality  
16 assurance training for your department?

17 A. Presently, no.

18 Q. Has it in the past?

19 A. I do not know.

20 Q. You don't recall any?

21 A. I never received any.

22 Q. Do you have any memory of  
23 checking the numbers on the Bradbury  
24 affidavit that's in front of you as  
25 Deposition Exhibit-1?

1 STEPHAN

2 A. I do not recall.

3 Q. If a loan has been modified,  
4 does that show up in the Fiserv system  
5 that you look at?

6 A. When you say "modified," are  
7 you stating a loan modification?

8 Q. Yes.

9 A. Yes.

10 Q. Does that show up?

11 A. Yes.

12 Q. If a loan has been modified,  
13 is any information put in the summary  
14 judgment affidavits that you sign about  
15 that?

16 MR. FLEISCHER: Objection.  
17 Are you talking about modified, or  
18 his term was loan modification. I  
19 just want to make sure we're  
20 clear.

21 MR. COX: That's fine.

22 BY MR. COX:

23 Q. If there's a loan  
24 modification, does information about a  
25 loan modification appear in the summary

1                   STEPHAN

2       judgment affidavits that you sign?

3           A.       I do not know.

4                   MS. PITNEY:   In all of them,  
5       or in this one?

6                   MR. COX:   In any of them.

7                   THE WITNESS:   I don't know.

8       BY MR. COX:

9           Q.       Based upon your testimony,  
10      Mr. Stephan, is it correct that when you  
11      sign a summary judgment affidavit, such  
12      as Deposition Exhibit-1 that is in front  
13      of you, you don't know whether any  
14      portion of it is true, other than the  
15      paragraph containing the numbers that  
16      you just described; is that correct?

17                   MS. PITNEY:   Object to the  
18      form.   Tom, are you asking him  
19      about this affidavit?

20                   MR. COX:   Well, he's  
21      testified that doesn't recall  
22      signing this particular affidavit,  
23      so that was not my question.   Let  
24      me restate it.

25      BY MR. COX:

1                   STEPHAN

2                   Q.       In your practice of signing  
3       summary judgment affidavits, Mr. Stephan,  
4       is it correct that they always have a  
5       paragraph containing the numbers of the  
6       amounts claiming to be due?

7                   A.       That would be correct.

8                   Q.       And is it correct that when  
9       you sign those affidavits, you don't know  
10      whether any other part of the affidavit  
11      is true or correct?

12                  A.       Please advise me.   What do  
13      you mean by "any other part"?

14                  Q.       Any other paragraph, other  
15      than the one containing the numbers.

16                  A.       I review it for the due  
17      date, if that's included in there.

18                  Q.       So all of them --

19                  A.       So that would be the  
20      numbers.

21                  Q.       So other than the due date  
22      and the balances due, is it correct that  
23      you do not know whether any other part of  
24      the affidavit that you sign is true?

25                  A.       That could be correct.

1 STEPHAN

2 Q. Is it correct?

3 A. That is correct.

4 Q. And isn't it also correct  
5 that you do not check the numbers on  
6 every single summary judgment affidavit  
7 that you sign?

8 A. That is not correct.

9 Q. You check every single one?

10 A. Yes.

11 Q. How long does it take you,  
12 on average, to process the execution of a  
13 summary judgment affidavit?

14 MS. PITNEY: Object to the  
15 form.

16 MR. COX: Please answer.

17 THE WITNESS: Anywhere from  
18 five to 10 minutes, off the top of  
19 my head.

20 MR. COX: If we can take a  
21 break. I may be done, but we can  
22 take a break for five minutes.

23 (Whereupon, a short recess  
24 was taken.)

25 BY MR. COX:



1                   STEPHAN

2                   Q.       Mr. Stephan, referring you  
3 again to the bottom line on Page 1 of  
4 Exhibit-1, it states: I have under my  
5 custody and control, the records relating  
6 to the mortgage transaction referenced  
7 below.

8                   It's correct, is it not,  
9 that you did not have in your custody any  
10 records of GMAC at the time that you  
11 signed a summary judgment affidavit?

12                   MS. PITNEY:   Objection to  
13 the form.

14                   THE WITNESS: I have the  
15 electronic record. I do not have  
16 papers.

17 BY MR. COX:

18                   Q.       You have access to a  
19 computer. Is that what you mean?

20                   A.       Yes.

21                   Q.       You have no control over  
22 that system, do you?

23                   MR. FLEISCHER:   Objection as  
24 to form.

25 BY MR. COX:

1                   STEPHAN

2                   Q.       You have no control over  
3       that Fiserv computer system, do you?

4                   A.       No, I do not.

5                   Q.       And someone else within GMAC  
6       is responsible for ensuring the accuracy  
7       of that system; isn't that correct?

8                   A.       That would be correct.

9                   MR. COX:   I have no further  
10       questions.

11                  MR. FLEISCHER:   We're done,  
12       Julia, unless you have something  
13       to add.

14                  MS. PITNEY:   No.

15                  (Witness excused.)

16                  -   -   -

17                  (Whereupon, the deposition  
18       concluded at 11:45 a.m.)

19

20

21

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

Testimony of: Jeffrey Stephan

By Mr. Cox . . . . . 4

- - -

E X H I B I T S

- - -

NO .	DESCRIPTION	PAGE
1	Affidavit	3
	August 5, 2009	

1  
2 I have read the foregoing transcript  
3 of my deposition given on June 7, 2010,  
4 and it is true, correct and complete, to the  
5 best of my knowledge, recollection and belief,  
6 except for the corrections noted hereon and/or  
7 list of corrections, if any, attached on a  
8 separate sheet herewith.

9  
10  
11 -----  
12 JEFFREY STEPHAN  
13  
14  
15  
16

17 Subscribed and sworn to  
18 before me this \_\_\_\_ day  
19 of \_\_\_\_\_, 2010.  
20  
21

22 -----  
23 Notary Public  
24  
25

CERTIFICATE

I HEREBY CERTIFY that the witness  
was duly sworn by me and that the  
deposition is a true record of the  
testimony given by the witness.

Susan B. Berkowitz, a  
Registered Professional Reporter  
and Notary Public

Dated: June 9, 2010

(The foregoing certification  
of this transcript does not apply to any  
reproduction of the same by any means,  
unless under the direct control and/or  
supervision of the certifying  
reporter.)